

# J State of Utah

## Title and Escrow Commission Meeting

### Meeting Information

Date: **December 8, 2008**

Time: 9:00am

Place: **Beehive Room**  
East Building

### Members

(Attendees = x)

#### Commission Members

xChair, Canyon W. Anderson, <i>Davis Cnty</i>	David M. Lattin, <i>Salt Lake Cnty</i>
xGlen W. Roberts, <i>Utah Cnty</i>	xGarry M. Goodsell, <i>Iron Cnty</i>
xJerry M. Houghton, <i>Tooele Cnty</i>	

#### Department Staff

John E. "Mickey" Braun, Jr. <i>Ass't Commissioner</i>	xPerri Babalis <i>AG Legal Counsel</i>	Mark Kleinfeld <i>Admin. Law Judge</i>	xTammy Greening <i>MC Examiner</i>
xSuzette Green-Wright <i>MC Director</i>	xSheila Curtis <i>MC Examiner</i>	Sandra Halladay <i>MC Examiner</i>	xJilene Whitby <i>PIO/Recorder</i>

#### Public

David Moore	James Seamans	Jack Marinello	Clayton Hansen
Cory Clayson	Walt Vandenberg	Al Newman	Looie Hamner
Lincoln Scoffield	Mark Webber		

## MINUTES

**Executive Session - 9:05am to 9:30am** (*Closed to the Public*)

**General Session – approx. 9:33am** (*Open to the Public*)

- **Welcome and Introductions** by the Chair, Canyon Anderson, at 9:05am. David Moore announced the passing of Warren Curtis. The funeral will be Wednesday. Canyon excused David Lattin.
- **Adopt Minutes of Previous Meeting**  
Jerry noted that on the second page, fourth bullet, "REPC" was misspelled. Suzette asked to have her name added to those in attendance at last month's meeting. Garry made a **motion** to approve the minutes with these two changes. All agreed.
- **Concur with Licensee Report**  
Canyon suggested **adding totals of title licensees to the report summary**
- . Jerry made a **motion** to concur with the licensee report, Garry seconded it and the vote was unanimous.
- **Number of Cases Open & Closed**  
Sheila said that next month there should be more closed cases. Last month 26 new cases were opened. Canyon noted there were more closed than open cases, especially in consumer complaints. The Commission decided to show closed cases once then drop them from the report. Jerry asked if the department was seeing any trends. Sheila said mainly in the area of escrow violations and food baskets given during the holidays.
- **Administrative Proceedings Action**  
Jerry made a motion to concur with the penalties for **Mountain View Title & Escrow, Inc.**

and Michelle McGuire Jensen as well as the penalty for Wasatch Land & Title Insurance Agency, Inc., all agreed and Canyon signed them.

- **Old Business**

- **Title Trust Accounts Rule R592-12 (R590-212) / "Good Funds" / Mickey**  
Pending. Keep on the agenda for next month.

- **Review changes to R592-10 (R590-187), R592-11 (R590-136) / Mickey**

- **R592-10**

- There was discussion on the definition of a business office and which ones should be assessed. Dave said it should be where the business files are. Glen suggested a brick and mortar definition. Clayton did not think people's homes should be included when a person works there a couple times a week, especially when they are still connected to the office. Canyon thought it should be where they regularly work and Garry said it is where the public come.
    - James said the Escrow Cost Analysis form attached to the rule is not a part of the rule.
    - In Section 6 "**Branch**" should be deleted from the heading. The correct attached form should be the Branch Office Report, renamed, Office Report.
    - Section 31A-23a-415 spells out the formula for the assessment. Canyon felt the Commission should know what the assessment will be before it is sent out.
    - Agencies are required to file the Office Report by Feb. 30.
    - Suzette said that if the assessment does not bring in enough money from the agencies then insurers are assessed up to \$200 each. Agencies and insurers are assessed based on the number of office in each county. Glen noted that the Commission doesn't have any authority regarding the assessment. The code spells out the requirements. The assessment is run in October.

- **R592-11**

- Glen questioned the need for an Escrow Cost Analysis report if the minimum fee rule passes. An agency can't submit a report that shows they are losing money or they will be in violation of the code. Jerry did not think the report helped the industry. No one will report costs above or below the minimum rates.
    - Mark asked if there was a way to file the report showing a loss without being in violation. Jack suggested the Commission charge a penalty of \$1. Dave suggested that if at the end of the year an agency files a report showing they have lost money they would then be required to raise their rates for the coming year. The penalty would come the next year if the report still shows a loss.
    - Clayton and Sheila suggested doing an anonymous survey to see how agencies are really doing. Perri noted that the Controlled Business Report is required by statute. Jerry said the Escrow Cost Analysis report is not required. Is it needed? Glen proposed that Mickey be consulted.
    - Glen made a **motion** to delete Subsection 4.(2)(b) and the reference to it in Section 6, as well as the Escrow Cost Analysis form if the minimum premium rule passes. Garry seconded it and the vote was unanimous.

- **Review Lot Reservation Bulletin / Mickey**  
Review at next month's meeting.

- **New Business**

- **Replace Commissioner's letter dated 10-26-94 RE: gifts, leads, other inducements.**

No one was familiar with a letter from the Commissioner regarding gifts, etc. Sheila said there was a law that allowed the department to go after a person who bribes an agency to break the law. Brokers and real estate agents may not know title laws or may wish to ignore them. The Commission decided that a letter should not be issued. It would dilute the rule. People should be referred to the rule and law.

- **Real estate company earnest money deposited at title companies**

- Canyon said the new REPC contract will push the responsibility of depositing money to brokers.
  - Jack said brokers have an addendum that requires title agencies to hold the money. Before releasing the money a title agency will require both parties to sign off.
  - Canyon expressed concern that collected and cleared funds were not really cleared when dispersing funds. Should "good funds" wording be added to the code? She said the department's clean-up bill had been reviewed at the last interim legislative meeting.
  - The definition of "good funds" was then discussed. Canyon said the best way to verify a check has cleared the bank is to get a letter from the bank. Jack said the REPC allows anything acceptable to the title agency.
  - Canyon asked Suzette to check with Mickey or the bill to see if "good funds" wording has been added to it and if not if it can be or if he can get a sponsor to carry it.
- **How comply with office co-habitation law when there is a lease agreement in effect?**  
 Glen said the department should send title and escrow agent in violation of the co-habitation law a letter telling them they are in violation and that when their lease renews they need to correct it. Those with Devinci Suites are likely to be in violation of this law. Glen thought there should be a distinct separation so there is no question. Jack noted that as long as space is not owned by a client then it is alright. Clayton said the rule was especially hard on small businesses. Canyon suggested that if a business is not sure if they are in violation or not, they should ask the department.
- **Other Business from Committee Members:** None
  - **Adjourned 11:37am**
  - **Next Meeting:** January 12, 2009, 9a.m., Room 250 of the Capitol

#### 2009 Meetings

Jan 12	Feb 9
Mar 9	Apr 13
May 11	Jun 8
Jul 13	Aug 10
Sep 14	Oct 19
Nov 9	Dec 14